SHRI PAWAN KUMAR BANSAL: It is a simultaneous decision. This Bill was taken up for consideration again, and, therefore, the opinion was that instead of going in for another Act, those changes can be brought about through the regulations under the other Act. ...*(Interruptions)*... इसमें कुछ भी गलत नहीं है। There is nothing wrong in it, Sir.

SHRI M. RAMA JOIS (Karnataka) : Under the 1998 Act, let them frame the regulations to regulate Lotteries. Because it has to be laid on the Table of the House, let them place those regulations and then withdraw. The Bill which is proposed to be withdrawn.

SHRI PAWAN KUMAR BANSAL: These are the precedents being set that the Government wants to introduce a Bill or the Government wants to withdraw a Bill, and, it is being obstructed. ...*(Interruptions)*... Okay. Fine, Sir. It is fine, Sir. ...*(Interruptions)*...

SHRI S.S. AHLUWALIA: There is a provision in the Rule Book. There is a provision to object to it. ...*(Interruptions)*...

SHRI PAWAN KUMAR BANSAL: These are the precedents which are being set. ...*(Interruptions)*... It is all right. ...*(Interruptions)*... These are the precedents which you are setting. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Are you moving it?

श्री अजय माकन : सर, अगर इसमें opposition की रजामंदी नहीं है, तो मैं प्रेस नहीं कर रहा हूं, लेकिन मैं फिर से यह कहना चाहूंगी कि ये दोनों चीजें अपने आप में विरोधाभासी हैं। एक तरफ हम लोग Regulations लेकर आना चाह रहे हैं और बिल already पार्लियामेंट के अंदर रखा हुआ है। इस तरह इन दोनों चीजों में विरोधाभास है। मैं सिर्फ यही कहना चाहूंगा।

MR. DEPUTY CHAIRMAN: Okay, the Bill is not pressed.

We will now take up the Representation of the People (Second Amendment) Bill, 2008.

The Representation of the People (Second Amendment) Bill, 2008

THE MINISTER OF LAW AND JUSTICE (SHRI M. VEERAPPA MOILY): Sir, I beg to move that the Bill further to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951, be taken into consideration.

Mr. Deputy Chairman, Sir, in a Parliamentary democracy, the process of election has to be free, fair and equitable. We are very proud to say that our Parliamentary democracy is the largest and the most successful one. But, at the same time, we have to acknowledge the fact that there is some deterioration in the standards and practices. And also the elections, the perception is, are sometimes influenced by money power, muscle power, caste power, corrupt practices and also unfair means. Over the years, we have seen that our Acts, regulations and the laws of the country will have to be

strengthened to provide for contingencies, to provide to sustain the democracy, to provide any kind of an accident which can overtake the free and fair election process. There are several negative influences which creep in to destroy the system, to distort the system. These things have been debated outside, debated on the floor of the House. Even the political parties many a time come together, deliberate on that and also suggest a number of measures to remedy. In July 2004, the Election Commission forwarded about 22 proposals from out of the experience of the discussions held with political parties and also because of the practical experiences which are being felt by them. We have now brought in only 5 components out of those 22 proposals and others are under process. But I do not say that this is quite exhaustive; I do not say that even the 22 proposals will meet the requirement of the time. That is why I have been thinking that there should be a national consultation to have a comprehensive electoral reform and the state-of-art election process to be set in this country so that we remove all the distortions. That is what we would like to do at a later time. But as far as these 5 components are concerned which are the subject matter of the amendment presently presented here, these have been examined by the Departmental-related Parliamentary Standing Committee. They have examined it in their 33rd Report which is before the House. We have examined it. One of the components is 'appointment of appellate authority in districts against orders of electoral registration officer'. This is amendment to section 24 of the RPI Act, 1950. All of us have witnessed names of voters missing from the electoral roll. This is a big issue. Initially, they find their names in the list. But when they go to cast their vote, they find that their names have been erased. It does not happen just with one voter. Sometimes the number is so substantial that it is definitely a factor in the failure or success of a candidate. We have witnessed that. What role does an administration play at the district level? Many a time it is influenced and this is done on a physical verification. There is no systemic approach to have a clean electoral roll. The officer's job is to ensure that an eligible person's name is included and retained in the electoral roll. It is a matter of right to him. It cannot be denied to him. He cannot be deprived of that right. Right to vote is the right vested in the electorate. But that is denied. He is not responsible for that. It is because of the system which prepares electoral roll. We are now with an amendment wherein we have proposed to appoint an appellate authority in the district itself instead of Chief Electoral Officer to simplify the procedure to redress the grievances of the electorate in the preparation of electoral roll. In addition to that, it has been proposed to add a new clause empowering the Chief Electoral Officer for revision of the order passed by the District Election Officer. It will be done in a time-bound programme, not after the election. 1 don't think on this measure, there will be much dispute.

Second component of this Bill is simplification of procedure for disqualifying a person found guilty of corrupt practices. Many a time to arrive at a decision takes a lot of time and then one election is over. That is why we thought that we have to specify the time in section 8A of the Representation of the People Act. If a person is found guilty of corrupt practices, the current procedure for disqualification is that the High Court pronounces the judgement in an election petition. Many a time, after the decision of the High Court, it goes to the Supreme Court. While it is pending, another election comes. It is no justice at all. It is negation of justice. We need to work on this. That is why through the concerned State Legislature Secretary or the Secretary-General of the Rajya Sabha or the Secretary-General of the Lok Sabha, as the case may be, the recommendation goes to the President. Then it goes to the Election Commission under Section 8A (3) where a judicial hearing is given to the affected party. Its opinion in this regard is communicated to the President who thereupon decides the period of disqualification according to such opinion. We are actually capsuling it with a time-bound programme. This is a very important thing and the circuitous route consists *inter alia* the registry of the High Court, Secretary of the concerned House of legislature and the President of India before reaching the Election Commission of India to enable it to render its opinion to the President. The journey is horrendous. It never ends. It does not get any termination. So this is important.

In fact, Section 8A is sought to be modified to provide a time-limit of three months within which the specified authority will have to submit the case of a person found guilty of corrupt practices to the President. It will have a far-reaching impact on having a fair and free election.

The third component of this Bill is the increase in security deposit of candidates. This is sought to be done by seeking an amendment of section 34 of the Representation of the People Act.

Sub-section 1 of section 34 containing the requirement of security deposit was substituted by the Representation of the People Act of 1996, and each candidate for election to the House of People is required to deposit an amount of Rs. 10,000/- as security deposit and for State Assembly, Rs. 5,000/-, and the amount of security deposit was last revised in 1996. As the time has come to increase it, the Election Commission of India had sent a proposal regarding the increase in security deposit of candidates to Rs. 20,000/- in case of election to the House of People and Rs. 10,000/- for Legislative Assembly. For candidates belonging to the Scheduled Caste and Scheduled Tribes, the deposit amount would be half of the respective amounts.

The fourth component is amendment of section 123(7) of the Representation of the People Act, 1951. Section 123 deals with certain practices which are deemed to be corrupt practices for the purpose of the said Act. Clause 7 of the said section mentions the categories of the officials of the

Government whose involvement in furtherance of the electoral prospects of any candidates at an election is to be treated as a corrupt practice for the purpose of the Act. Sir, this covers how to discipline the bureaucracy. They play havoc many a time. We need to discipline them. We can catch them with a proper claw of the law. This is what is intended. It is a question of furthering accountability among the officers on election duty.

The last component is to restrict the publication and dissemination of exit polls conducted during elections to Lok Sabha and Legislative Assemblies. This is a matter which the House will have to deliberate properly. Many a time, the exit polls are held. Nowadays, elections are spread over to one month, sometimes, to two months, and exit polls keep coming on the same day, and that has an influence over the electorate. It will give advantage to some people. I do not want to attribute any motive to the media or any person as it is. But the question is, that will definitely give an advantage to persons, advantage to political parties. That is why I said that the election should not only be free and fair, elections should also be equitable. Equitable treatment will have to be given to the respective political parties and the persons who are standing for the elections. I have seen it in many countries. For example, U.K., Germany and many other countries, they do not allow the exit polls before the announcement of the results. Yes, they can announce it before the last polling. These are few components that we have selected. Of course, this is not the end of the journey in the electoral reforms. I am again reiterating the matter that we will come out with comprehensive reforms for elections because we are credited to be the largest Parliamentary Democracy. We continue to be there in future also. That means we should always revisit, revisit every step they take so that our Parliamentary Democracy is the best in the world. With this, I commend the Bill for consideration of the House.

The question was proposed.

SHRI S.S. AHLUWALIA (Jharkhand): Mr. Deputy Chairman, Sir, I am speaking on the Representation of the People (Second Amendment) Bill, 2008. The Bill seeks certain amendments in the principal Act, the Representation of the People Act, 1951. Sir, we have got roughly about 201 sections in the principal Act, the Representation of the People Act of 1950 and 1951.

In the last 59 years, we amended many sections because with the passage of time, so many developments had taken place in the electoral process. The constituency also has become big; the number of polling booths also has increased. When the principal Act was enacted, at that time, the country's size was 35 crores. Now, we are more than a billion. We are working on the same Act. At that point of time, electronic media was not there. Now, there is an electronic media. At that point of time, so much of print media was not there. Telephones or communication systems were not so

strong. Just to get a trunk call connected, you had to wait for hours together, for days together, to connect. But, now, you can send an SMS within the fraction of a second and you can communicate to anybody right from Kashmir to Kanyakumari and from Kohima to Kutch. There are different political parties. Although regional political parties are there, some of them contest elections in the whole of India. With these developments, don't you feel that we should come out with a new comprehensive version of the Representation of the People Act?

Now, Sir, what is the lacuna? I give you a small example. A person who is in the judicial custody cannot vote. A person who is in the jail cannot vote, but a person who is in the jail can contest! A person in the judicial custody can contest an election but a person who is in the jail cannot vote! If a person is not entitled to vote, how can he contest? It is a simple thing. But the point is, when you change, you must apply your mind. Time and again, the Election Commission has given you a lot of suggestions that you should bring forward this amendment in the principal Act. Time and again, we have found, through the judgments of High Courts and Supreme Court, that many suggestions have appeared, and we have discussed them. But we have not incorporated them in the principal Act. We have not amended that. Again, we have brought this Bill in a piecemeal manner. If you see, just now, the hon. Minister and my learned friend, my elder brother, Veerappa Moilyji, was explaining that there are five elements; five amendments are to be made in the Bill. Now, what are those five amendments? With these five different fields, there is no connectivity. If you see, number one is 'exit poll'. 'Exit poll' is connected with the electronic media and the print media. Appeal process. 'Appeal process' for what? For inclusion or deletion of a voter's name from the voters' list. The day before yesterday, I was reading a news-item. What is the procedure to get your name included in the voters' list? A simple process. You must have a ration card, and for having a ration card, you must have a residence proof, That is enough for getting your name included in the voters' list. The day before yesterday, I was reading a news-item; that was from Chittoor District of Andhra Pradesh. One ration card was issued in the name of Mahatma Gandhi, son of Nathuram Godse! Sir, would you like to see a name appearing in the voters' list as "Mahatma Gandhi, son of Nathuram Godse?

The other day I read that in the names of some national leaders job cards were issued under NREGA. You know, Moilyji, during the Emergency the names of senior leaders appeared under the birth control operation and the money was released. There was an Inquiry Commission and it appeared in the Shah Commission inquiry also. So, our system is not foolproof. Now you have brought it that for deletion and inclusion, instead of the Chief Electoral Officer, the District Magistrate or the ADM should be there. It is fine. Normally, the District Electoral Officer also sits in the same

campus where the District Deputy Commissioner or the District Magistrate or the ADM sits. One of the ADMs ultimately becomes the District Electoral Officer. Now you have brought in this process and you are saying that this is a big achievement. I don't understand how you are going to protect the rights because you know that to get your name included, you need a PAN card, you need residential proof and you need a ration card.

I read another report where it was stated that there were about 3.5 million false ration cards in a particular State. It is strange. It means that by using the 3.5 million false cards you can make 3.5 million false voters also. Recently, one terrorist with Taliban link was caught in Lucknow. He had a PAN card; he had a ration card and he had a voter ID card. He had everything. It means that you don't need an Appellate Committee. But you need a foolproof system at the ground level where these cards are made, where they can check the genuineness of the person whether he or she is a citizen of the country or not, whether he or she is a bona fide resident of the country or not, whether he or she is a voter of any other State or not. There is the issue of Bangladeshi infiltrators. The Delhi High Court has given you a direction to deport them. Their names are appearing in' the electoral list. Election after election, whether it is the municipal election or the general election or the Assembly election, they are participating. Despite the order of the High Court they were not deported. So, how are we going to function? That is why, again and again, I am making the request.

Then, you are bringing in the corrupt practices, disqualification, election procedure and the Mizoram aspect. In 1998 and in 1999, the Election Commission of India attempted to bar the publication of opinion polls. They went to court. They went to court quoting article 19 (1) of the Constitution. A civil writ petition was filed in the Supreme Court stating that the ECI ban was violation of article 19(1) of the Constitution. The Supreme Court later ruled that under article 324 of the Constitution the ECI had no power to impose such guidelines, but did not address the issue whether this was a Constitutional violation. Then another writ petition was filed in 2004 which is pending before the Supreme Court. The judgement has not yet come. But in the meantime, in 2008, the Representation of the People (Second Amendment) Bill was brought forward and it went to the Standing Committee, and the Standing Committee called the stakeholders and they had discussed it. They have discussed everything. I have nothing against the media. I have nothing against the print media or the electronic media. But you cannot raise the question of fundamental right everywhere. If you have a fundamental right, I also have a fundamental right. Canada requires the publication of any election survey to include details of the survey. In Canada, if you are publishing a survey, you must have to give the formula of the survey; how many people you have surveyed and what was the

answer given by them. You have to disclose all this. But here nobody does that. Canada prohibits publishing any new survey results on the election date and before the poll closes. France bans the publication of opinion polls on a day before the ballot and the day of the ballot. It requires individuals who publish opinion surveys to also release information on data collection. It is done in France which is more advanced in the communication system than India. Italy allows the conduct of opinion polls but forbids publication and diffusion of these fifteen days prior to election. Exceptions are allowed if the publication is released with an information note about the poll and it is recorded on a website. They have to give the details as to what was the sample of the survey; how many people responded; what was the question and what was the response.

In the United States of America, of course, there is no restriction. But the United Kingdom forbids publication of exit polls on the election day and any forecast before the elections are over. Punishment includes fines up to level 5 on the standard scale or imprisonment up to six months. South Africa prohibits any person from printing, publishing or distributing the results of exit polls during the prescribed hours for an election. These are the points. You have addressed these issues. You have discussed these matters.

Now there is the issue of multi-phase election process. I belong to the State Jharkhand, a small State with 81 Members of Legislative Assembly. But here election is conducted in five phases. Tomorrow, there will be phase-I and the last phase will be on 18th of December. If tomorrow there is an exit poll, will it not affect the rest of the election process? Same political parties are contesting.

The Election Commission recommended many things. They have said that prohibit the person accused of an offence which is punishable with imprisonment for five years from standing in elections. There is no mention of any amendment in this regard from the Government side. That is why I have raised this issue. A person who is in jail is not entitled to vote, but a person who is in jail is entitled to contest an election. That means a person who is not entitled to vote can contest an election. You have brought in this clause of increase in security deposit.

Then comes the issue of contesting from multiple seats. The Election Commission has requested that one candidate should not contest an election from more than one constituencies. The candidate, who wins from multiple constituencies, must bear an expenditure of Rs. 10 lakhs for Lok Sabha by-election and Rs. 5 lakhs for Assembly by-election.

Now, what happens is that in every political party, some people want to contest from two or even three constituencies. After elections, they resign. And, due to their resignation, there is by-

election. Now, by-election means more expenditure. Who bears this cost! It is borne by the National Exchequer. So, the Election Commission requested you to amend the law. But no action has been taken. Then, regarding disqualification of offences, they requested you to simplify the procedure. You have done that. As regards campaign accounts, they wanted that political parties should get their accounts audited by Government-approved auditors and make these available to the general public. Again, no action. As regards advertisements, they wanted that advertisements, on behalf of a political party or a candidate, by a surrogate, should be accompanied by the name and details of the surrogate. Then, it was suggested that Government advertisements should be prohibited six months prior to the date of dissolution or expiry of the term of the House, except in case of giving public information or announcing Government schemes. No action in both these cases. ...*(Interruptions)*...

श्री शान्ताराम लक्ष्मण नायक (गोवा) : इसकी जरूरत नहीं है।

श्री एस.एस. अहलुवालिया : जरूरत नहीं है, आपके हिसाब से जरूरत नहीं है, क्योंकि चुनाव की तिथि घोषित होने के बारे में सरकार को मालूम होता है। उसके छह महीने के पहले से सरकार के सभी विभागों को बोलते हैं कि प्रचार करो, सरकारी खाजाने से पैसे निकालकर टी.वी., रेडियो पर प्रचार होता रहता है। एक मिनट के प्रचार पर लाखों रुपये का खर्च आता है। ...(**व्यवधान**)...

श्री उपसभापति : आप तो इस पर बोलने वाले हैं। आप बीच में मत बोलिए। ...(**व्यवधान**)...

श्री राजनीति प्रसाद (बिहार) : Sir, I also wanted to give my name.

श्री उपसभापति : ऐसा है कि डिबेट शुरू होने के पहले नाम देना चाहिए।

श्री राजनीति प्रसाद : मैं आपकी बात मान लेता हूं। सर, क्या करें? हाउस चलेगा नहीं, इसलिए नाम नहीं दिया।

श्री उपसभापति : ऐसा नहीं होता है। आप हाउस में बैठे थे, आपको नाम देना चाहिए था।

श्री राजनीति प्रसाद : चलने की उम्मीद नहीं थी, इसलिए हमने नाम नहीं दिया।

SHRI S.S. AHLUWALIA: I am just reading out the recommendations sent by the Election Commission of India, which the Government has either not accepted, or, where no action has been taken while bringing in the Amendment to the RPI Act. Again, there was a suggestion regarding removal of the Election Commissioners. Currently, the Chief Election Commissioner can be removed only in a manner similar to the impeachment of a Judge of the Supreme Court. It was sought that the same protection should be extended to other Election Commissioners. Here, no action. No action means that it has neither been accepted nor rejected. Then, it was suggested that the expenditure of the Commission should be charged to the Consolidated Fund of India. No action. Then, transfer of Election Officers should not be made without the approval of the Commission once the General Election or by-election has been called. Then, they wanted imposition of a six-month ban on transfer of officers prior to the date of term of expiry or dissolution of the House. No action. They further

5.00 P.M.

wanted that the authority to make rules should rest with the Election Commission. No action. I would like to know from the hon. Minister as to whether they had any consultation with the various political parties on the various recommendations made by the Election Commission. Did you do any such exercise? If so, what was the response?

SHRI M. VEERAPPA MOILY : Mr. Deputy Chairman, Sir, I would like to intervene on this. No action does not mean inaction. No action, sometimes, denotes that no further amendment is necessary or that those proposals may be under the consideration of the Governments. These are the only two answers. Then, so far as these five proposals are concerned, you may kindly recall that in 2004, there was an all-party meeting called by the Chief Election Commissioner, and these have been agreed to. Whatever has been agreed to by them, the same has been brought about. In respect of other proposals out of 22, we will, definitely, discuss with you, and if you arrive at a consensus, we will not hesitate to bring them before Parliament.

SHRI S.S. AHLUWALIA: That is the reason. Instead of bringing forward amendments in the Representation of the People Act in a piecemeal manner, you should have brought in a comprehensive Bill.

SHRI M. VEERAPPA MOILY: Sometimes, it is not possible to wait for the last amendment to be agreed upon.

SHRI S. S. AHLUWALIA: Sir, I don't know from where you have the pressure. Now, you want to change the Companies Act of 1956. You are bringing in a new Bill. You are changing about 400 Sections. Here, there are only 200, and these relate to the basic concept of democracy in our country. The same voters are voting for Panchayats, your mini-Parliaments, Ziila Parishads, Municipal Corporations, Legislative Assemblies, Legislative Councils and, then, the Parliament. That is the base. Now, you want to change the Tax Codes, the Income-Tax Act. You want to change the entire Tax Code. You are the architect of that blueprint, I know.

SHRI M. VEERAPPA MOILY: I can just assure the House that tomorrow or the day after, after you pass this Bill, we will take up the rest of the 17. If you are in a position to arrive at a consensus, I am prepared to call for a meeting. We will arrive at a consensus. We will also involve the Election Commission. We will go by that. We have no problem. But, at the same time, it cannot stop somewhere. Things should move on. That is what is our *bona fide* intention is.

SHRI S.S. AHLUWALIA: I am not saying that you repeal this Bill today and, tomorrow, bring a new Bill. There shouldn't be a vacuum. But have you started the process? You were the Chairman of the Administrative Reforms Commission where you dealt with ten or twelve reports.

SHRI M. VEERAPPA MOILY: Fifteen reports.

SHRI S.S. AHLUWALIA: So, you dealt with fifteen reports in the ARC before becoming the Law Minister of this country. You have dealt with so many things. You must have seen the procedure relating to the Representation of the People Act and you must have felt that it needs change.

SHRI M. VEERAPPA MOILY: Yes, there is a chapter on that.

SHRI S.S. AHLUWALIA: There is a chapter. So, it needs change. Now, implement it. Now, bring a comprehensive background note. Call an all-party meeting.

MR. DEPUTY CHAIRMAN: He has just now given the assurance. After this, he is going to have a meeting and, if there is a consensus, he doesn't mind bringing a Bill.

SHRI S.S. AHLUWALIA: I can tell you, Sir, why I am saying this. There is a clause relating to corrupt officers, corrupt practices and disqualification. You waited till the Madras High Court gave the judgement in 2000; and they might have gone to the Supreme Court; and, from the Supreme Court, when they came back, then only our eyes were opened. Then only we came to know about the corruption. That is why I have given that small example of Chittoor district where a ration card was issued in the name of Mahatma Gandhi, son of Nathuram Godse and with the help of the ration card, he will get his name included in the voters' list and the voter's name will be Mahatma Gandhi, son of Nathuram Godse. Is it correct? But a man with the name of Mahatma Gandhi, son of Nathuram Godse does not exist at all. ...*(Interruptions)*... हो नहीं सकता, ऐसा हो रहा है। मेरे कहने का मतलब यह है कि इन चीजों को रोकने के लिए foolproof system होना चाहिए। ...(**व्यवधान**)...

SHRI M. VEERAPPA MOILY: That is why, we have brought it in here. There should be a sense of accountability on those officers. That is why, punishment is provided for here. One cannot do it. An appellate authority is also provided now. That all shows that a lot of accountability has been ensured in the whole system. That is why, we brought this amendment.

SHRI S.S. AHLUWALIA: This appellate authority is to take care of only the registration and inclusion and correction of names in the Electoral Rolls. If my name is not included, then only the appellate authority comes into the picture. But I am saying the basic requirement to get your name included is the ration card and, if ration card is fictitious, what will you do? Now, my learned friend, the hon. Home Minister, is fortunately here and he is in-charge of internal security also. He should be aware of these facts.

He should be aware of these facts that one ration card, a fictitious ration card can create havoc. And a fictitious man, in that name, can claim so many benefits. When you contest an election, you need to have your name in the voters' list. It does not matter whether you have an ID or a photo ID, but you must have a certified copy of the voters' list. So, tomorrow, we will find that a

person who is not a citizen of India at all has contested elections. As you know, in Lucknow, a person was caught, you must be aware of that case, who had PAN Card, bank account, Voter ID Card, ration card and everything. So, he can contest election, and tomorrow he can also become a Minister of our country. If I go by the spirit of articles 74 and 75, the President of India can nominate a Prime Minister, and on the advice of the Prime Minister a person can become a member of the Council of Ministers.

SHRI RAJNITI PRASAD: Maybe the Prime Minister.

SHRI S.S. AHLUWALIA: Maybe, under certain circumstances, when no party is getting a majority, with the help of somebody, he can become the Prime Minister. So, one should have a serious thought over it. So, my submission is this. ...*(Interruptions)*... Moilyji, please listen to me.

SHRI M. VEERAPPA MOILY: I am listening to you.

SHRI S.S. AHLUWALIA: You are taking brief of the Home Minister. So, the point is, we are certainly going to support these five options. But, after getting this support, the Government should come forward with a comprehensive Bill so that we can give a good framework to our people. We could not give a foolproof democratic system to our forefathers, at least, we can give it to our future generation. To have a good democratic system, there should be a good election management system. So, it can be done through the Representation of the People Act. Thank you very much. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Now, Shri Shantaram Naik. ...*(Interruptions)*...

THE MINISTER OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Sir, I have to make the statement. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: No, no; the debate is going on. ...*(Interruptions)*...

SHRI M.V. MYSURA REDDY (Andhra Pradesh): Sir, I have a point of order?

MR. DEPUTY CHAIRMAN: What is your point of order?

SHRI M.V. MYSURA REDDY: Sir, the Bill which has been circulated to us has the name of Shri Hansraj Bhardwaj. ...*(Interruptions)*... I want to know whether the Law Minister is Shri Hansraj Bhardwaj or Shri Veerappa Moily. ...*(Interruptions)*... This is the Bill circulated to us. ...*(Interruptions)*... It is in the statement of the Minister. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: It is in the Bill which has been circulated to the Members. ...*(Interruptions)*...

SHRI P. CHIDAMBARAM: That is how it was introduced here. ...*(Interruptions)*... The Rajya Sabha does not dissolve. ...*(Interruptions)*...

SHRI BIRENDRA PRASAD BAISHYA (Assam): Sir, the hon. Home Minister is here. He has to make a statement on Assam blasts. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: He will make a statement, but the clarifications will be on some other day.

SHRI BIRENDRA PRASAD BAISHYA: No, Sir. Why, Sir?

MR. DEPUTY CHAIRMAN: It is because the debate is going on. ...*(Interruptions)*... The debate is going on and, in between, it is difficult to allow clarifications on the statement. ...*(Interruptions)*...

SHRI P. CHIDAMBARAM: Mr. Baishya, I am ready for clarifications. But, since the debate has started, I will make the statement today, and tomorrow you seek the clarifications. ...*(Interruptions)*...

SHRI S.S. AHLUWALIA: Tomorrow will never come. ...*(Interruptions)*...

SHRI BIRENDRA PRASAD BAISHYA: Sir, give me just one minute to speak on this. Sir, the situation in Assam is very critical. Since yesterday we have been raising it in the House. ...*(Interruptions)*... We want to seek certain clarifications from the hon. Home Minister. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: So, the debate will go on up to 5.30. Then, the Statement of the Home Minister will be at 5.30, and we will continue the debate on the Bill tomorrow. ...*(Interruptions)*... Four hours are fixed for this Bill. Now, Shri Shantaram Naik.

SHRI SHANTARAM LAXMAN NAIK : Sir, I would like to begin by agreeing to some extent with my learned friend, Shri Ahluwaliaji, in the sense that he has said that the Bill is not exhaustive. That has been rightly answered by the Law Minister that in case there is a consensus on various issues, then, a comprehensive Bill can be brought in. But, one of the sections which needs immediate attention is Section 29 of the Representation of People Act, 1951, which deals with the registration of political parties.

As the section today stands, you register a party submitting the constitution of every party. Every political party has to submit a copy of its constitution to the Election Commission and there it is registered.

After the Liberhan Commission Report, I do not think the BJP has got any right to remain in the Statute Book. Therefore, its registration needs to be cancelled. If there is any flaw in section 29, it has got to be amended. The spirit of section 29, the spirit that requires political parties to be registered is after giving a commitment and that commitment has been shattered into pieces. It has come to light now. Each and every leader is identified as a violator. Therefore, what right do you have to remain as a political party? When a nomination is filed before the Returning Officer, what do you do? You would take an oath saying that you would protect the Constitution. When you get elected,

again you take that oath of protecting the Constitution. When you become a Minister, there also you take that oath that you would protect the secularism and the Constitution. But, when you go for public meetings, you would say that secularism is of the Congress party and that you do not believe in -secularism. This is your commitment as a political party. Therefore, I say that while you are making certain changes, make a commitment to yourself and to your political party.

I would like to say that there are 22 proposals submitted by the Election Commission. But the Election Commission should be asked, 'You are submitting these 22 proposals. What happened in the past? Instead of submitting proposals, without caring for Parliament, under article 324, in the guise ot article 324, various laws have been created left and right." If these 22 proposals cannot be used, what about the hundred laws that have been created?

SHRI S.S. AHLUWALIA: They are guidelines, not laws!

SHRI SHANTARAM LAXMAN NAIK: I would say that they are laws because they are enforceable. I could have brought a volume to show how many pages of laws are passed by Parliament and how many pages are created under article 324. Therefore, the Election Commission should be asked. I would even go to the extent of saying that if there are any good aspects of law covered by those notifications issued under article 324, let us incorporate them into the law. Let us go to that extent even. But, let them not remain in the form of notifications or orders issued day in and day out under article 324. Why do they issue those? Because, every candidate has got only fifteen days. Only during the election time they would issue. No candidate can go to a court, he does not have the patience nor the time. So, you issue any order under article 324! In fact, this started happening during the time of Mr. Seshan. Mr. Seshan said, 'My powers are under article 324 and these are far more powerful than the powers vested under Representation of the People's Act, 1951.' Therefore, Sir, the task is with you and this is a serious task. I would say time and again, let us restore the powers back to Parliament. Our powers have been taken away partly by the Supreme Court and partly by the Election Commission. You know in the case of Lyngdoh Committee. What happened? The Supreme Court constituted the Lyngdoh Committee for governing election to universities and colleges. Fine! The Lyngdoh Committee gave its report. They gave several recommendations making the elections very restrictive. After five years, what did the Supreme Court itself say? This constitution of the Lyngdoh Committee by the Supreme Court amounts to the judicial legislation.1 Therefore, they then referred it to a five-judge Bench. They have realised one instance. But there are so many other cases where through interpretation they have encroached upon our powers for which we have not done anything. Same thing is with the Election Commission. Therefore, I have always said that we passed 20 per cent laws and 80 per cent laws are created by

the Election Commission and by the Supreme Court. Now, Sir, as far as the Appellate Authority is concerned, it is a good idea that registration of electorate should be there. But, what about Appellate Authority on certain issues other than elector which crop up during filing of nomination? The present law is that there is no remedy. You can only file election petition. If this law is allowed to be retained or some remedy is to be given and supposing I file some assessment of my wealth and property and I give a wrong statement. What is the remedy? The other party's remedy is election petition after the results are over. Is there no remedy in between just like you are giving remedy as far as registration of electorate is concerned? Secondly, if the Muslim voters are in substantial number, say thousands of voters which may impact elections, will this authority have a right to stay the election in that particular constituency? If this right is not vested, then, this power of Appellate Authority has no meaning. Kindly give a thought to this aspect. Then, as far as exit poll is concerned, it was required that this should be covered under a statute. We are speaking of guidelines etc. Now, you have done the right thing by bringing this. Now, I would like to know whether the definition of company includes a society registered under a Society Act and a trust registered under a Trust Act because there may be a trust which may manage a television channel. So, I would like to know whether those people will be covered under this. Then, Sir, you have given powers. As it is, they have taken powers of Parliament under article 324. Now, here also under clause 7, you are giving powers to specifying dates etc. for exit poll, for notification. All those powers have been given to Election Commission to issue orders, Why don^t you frame rules? If you want to do some detailing under exit polls, then, that detailing should be done under rules rather than the orders issued by the Election Commission. One may argue that for exigency, power is required to be given to Election Commission. There is no exigency. You may well decide what is to be done and include in the form of rules. Then, another aspect, Sir, which has not been touched in this, and, which I would like you to touch at any future date is the entire staff which is given to by Election Commission is deemed to be on deputation. This is well understood because unless you say it is deemed to be on deputation they will have no control. It is correct. The law says – I do not have the RP Act now, but, a particular section in the RP Act clearly mentions it that this power is limited till the process- of election is over. But, Election Commission has, time and again, taken a stand that their power extends beyond that. How it is possible? How do they act against a particular section and the provision is specifically mentioned. Suppose, if a case is filed against an officer for some indiscipline during elections, how can an election Commission monitor even after the process is over? That is the duty of the prosecuting machinery of the State. They cannot say, you show me the charge sheet, you show me the evidence. I will guide, I will

monitor. The Election Commission cannot say this, but, they have been doing this. Therefore, let this be very specific and clear. There is no need of an amendment. It only requires to be brought to the notice of the Election Commission that you do not have the power to monitor cases of Government servants whenever disciplinary action is there after the election process is over.

The Election Commission sends observers. There is a clear-cut provision for observers. I fully agree with it. There is no point on that. But, the instructions given to them are so vague that in each State the election observers frame their own laws. They will list out various things. Supposing, people, in an election campaign office, are eating Samosas or Butter Nans. They say, 'I will decide the rate of what you are eating.' They say, the rate of Samosa is Rs. 10 and Butter Nan, Rs. 5 or whatever it is. Although the workers of the party have brought the same from hotel for Rs. 2 or Rs. 3 or whatever it is, still they decide the rate. Suppose, if we buy caps for workers, they decide the rate, although he might have brought caps for triple the rate of what the observers decided. If you are holding a rally and wish to bring chairs, they will say, 'I will decide how many chairs have to be brought and account them.1 So, these are the vague things which need to be controlled. I remember, a lady leader of ours went to the Election Commission. I also accompanied. She said, 'If I put 'Hand' symbol on my sari, is it permissible.' He said, 'No. It is not permissible. How is it permissible?' She asked, 'What will you do?' He said, 'I will charge money for that sari.' She asked again, 'If I don't pay, what will you do.' He said, 'I will confiscate sari.1 What does it mean? ft means, first, they wiiY ascertain whether you are wearing sari with the permission of the candidate. If there is a permission of the candidate, then charges will be included in the account of the candidate. If candidate says that he has not given the permission, then, the sari will be confiscated. It may appear exaggeration. But, the 'law' of observers and their concept is similar to this. I have explained this because I was with that lady when this exchange of words took place with the Member of the.Election Commission. Suppose, in a VIP rally, if we notify that 40 persons will be our main campaigners — of course, there is a difference of opinion on this - - sometimes, they say that expenditure of this rally will be on candidate if that candidate is brought on the dais and present himself before voters with folded hands. But, if candidate sits on chair down below, then expenditure goes to the account of the party. These sort of funny equations, Sir, are not proper. And, again, it is not uniform. In some States they say it is different. If candidate sits even down below the dais, the expenditure is put in the account of candidate. So, this create problem as, ultimately, the expenditure goes beyond certain limit on account of such kind of illogical interpretation. You have referred that the expenditure being increased from Rs. 10,000 to Rs. 20,000. Kindly see that the

expenditure of the candidate also increased similarly. Otherwise, Rs. 10,000 more will go from candidate's account. They will do this. You have hardly any power. As far as increasing the expenditure is concerned, they will issue their own notification.

Another issue which applies to Goa, Tamil Nadu, Karnataka and many States, particularly Kerala, is several seamen work on ships and other people go to Gulf for jobs. The Election Commission officials go to their houses and if they find that those people are not available, they will delete their names from the electoral list. Actually, they will go either to Gulf for one or two years for work or work on ship for one or two years. The ship is not his house. He is just working in that. But, because he is working in ship or in Gulf, as the case may be, and not present at home, his name is removed from the electoral rolls. To remove this anomaly, the Ministry of Law and Justice introduced a Bill. I wanted to know what the status of the Bill. It had lapsed two years back. It is absolutely essential. Since it is linked with NRI thing, I think, it has not been introduced again. Forget about NRIs. We are not concerned with that. But, the interests of this category of people who are working on-ships or in Gulf countries need to be protected... so that, whenever they are here, they can vote.

SHRI M. VEERAPPA MOILY: It is under active consideration.

SHRI SHANTARAM LAXMAN NAIK: Thank you, Sir, Lastly, I would like to mention that our electoral system, we can proudly say, is a very foolproof system. We have got a legislation, called, RPF, 1950, another legislation, called, RPF 1951; similarly, we have got other rules too. These entire things, when put together, make perfect machinery and, therefore, we have been successful all these years. But, Sir, kindly see to it that Parliament's power to legislate on election is not taken away. It is your job to see that the Election Commission is told that their powers, under section, 24 are restricted. Similarly, the Supreme Court has to be told that its powers of creating laws, in the name of interpretation, are also limited. Thank you very much, Sir.

MR. DEPUTY CHAIRMAN: We will take up further discussion on the Bill tomorrow. Now, a statement by the hon. Minister of Home Affairs.

STATEMENT BY MINISTER

Bomb blasts in Nalbari district of Assam

THE MINISTER OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Mr. Deputy Chairman, Sir, it is with a deep sense of anguish that I have to inform this House about the unfortunate incidents of two bomb blasts in Nalbari district of Assam on November 22, 2009 which have resulted in the loss of 6 lives and injuries to 52. The preliminary reports indicate that the perpetrators of these crimes belong to the United Liberation Front of Asom (ULFA). In the past few weeks, we had received intelligence